

REMARKS:

The claims pending in the application are 1-20.

In the specification at page 4, line 30 after the term "FYROLTEX® HP" its corresponding CAS Registry number as it appears in the claims has been inserted. Since the fact that "FYROLTEX® HP" is synonymous with the CAS No. 70715-06-9 was readily available at the time the application was filed (see Exhibit A) no new matter has been added to the specification as acknowledged by the Examiner in the telephone conference of June 9, 2008.

By way of this amendment, the term "optionally" has been deleted from line three of Claim 1 and inserted before the phrase "a curing catalyst." Accordingly, claim 1 as amended, requires that the composition comprises one or more N-methylol functional resin(s), as well as, a hydroxyl-functional phosphorus ester containing at least two phosphorus atoms therein, a melamine-formaldehyde resin and optionally a curing catalyst. Support for this amendment can be found in the claims as originally filed. In particular, support can be found in claim 1 as originally filed since claim 1 as filed "optionally" required one or more N-methylol functional resin(s) and a curing catalyst. Since "optionally" is equivalent to the phrase "and/or" claim 1 as originally filed provides support for a composition requiring one or more N-methylol functional resin(s) and optionally a curing catalyst. No new mater has been added.

Claims 15, 17, 18, 19, and 20 have been amended so as to correct an error in the formula presented in these claims. It appears that the error was

introduced by the preliminary amendment filed to correct multiple dependencies.

Support for the correction can be found throughout the specification and the claims as originally filed. In particular, page 7 top line of the specification and claims 15, 17, 18, 19, and 20 as originally filed in the priority document. No new matter has been added.

In the Office Action, the specification has been objected to for failing to provide proper antecedent basis for CAS No. 70715-06-09. In making this objection the Examiner stated that this term was not supported in the specification. As discussed in a telephone conference with the Examiner on June 9, 2008, the specification has been amended to include the CAS No. as it appears in the claims and therefore the objection is now moot.

In the Office Action, claims 1, 7-10 and 15-16 have been rejected under 35 U.S.C. §102(b) as being unpatentable over US Patent No. 4,355,178 to Fearing (herein “Fearing”). It is noted that in making the rejection, the Examiner referenced Fearing as having US Patent No. 4,355,178, however as stated by the Examiner in a telephone conference and in the PTO-892 attached to this Office Action, the proper US Patent No. is 4,335,178. Accordingly, the Applicants have used this reference in responding to the current Office Action.

By way of this amendment, claim 1 has been amended so as to recite that the claimed composition comprises one or more N-methylol functional resin(s), as well as, a hydroxyl-functional phosphorus ester containing at least two phosphorus atoms therein, and a melamine-formaldehyde resin and optionally a curing catalyst. Fearing does not teach (or suggest) a composition comprising

melamine-formaldehyde and N-methylol functional resin(s). That is, Fearing does not teach (or suggest) a composition comprising the combination of the two different crosslinking resins as recited in the claim as amended.

As is well settled, anticipation requires “identity of invention.” *Glaverbel Societe Anonyme v. Northlake Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). Thus, there must be no differences between the subject matter of the claim and the disclosure of the prior art reference. Stated otherwise, the reference must contain within its four corners adequate direction to practice the invention. The corollary of this rule is equally applicable. The absence from the reference of *any* claimed element negates anticipation. *Kolster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

Accordingly, since the claims as amended require that the claimed composition comprise one or more N-methylol functional resin(s), as well as, a hydroxyl-functional phosphorus ester containing at least two phosphorus atoms therein, and a melamine-formaldehyde resin and Fearing does not teach or suggest a composition comprising both melamine-formaldehyde and N-methylol functional resin(s), it is respectfully requested that the rejection of claims 1, 7-10

and 15-16 under 35 U.S.C. §102(b) over Fearing be reconsidered and withdrawn.

In the Office Action, Claims 2-5 and 17-20 have been rejected under 35 USC § 103(a) as allegedly being unpatentable over Fearing in view of US Patent No. 3,874,912 (Swidler). In making the rejection, the Examiner relied on Fearing for teaching the elements as discussed above in the 35 USC 102 rejection. However, as stated above, Fearing fails to either teach or suggest a composition comprising melamine-formaldehyde and a N-methylol functional resin(s) as required by the claims as amended. In view of the foregoing and the fact that Swidler fails to correct the factual defects of Fearing, the combination of Fearing and Swidler does not teach or suggest a composition as recited in claims 2-5 as amended nor does it teach or suggest a fabric coated with said composition. Accordingly, it is respectfully requested that the rejection of claims 2-5 and 17-20 under 35 USC § 103(a) over Fearing in view of Swidler be reconsidered and withdrawn.

Similarly, in the Office Action claims 6, 11 and 14 have been rejected under 35 USC 103(a) as allegedly being unpatentable over Fearing as applied above, in view of US Patent No. 3,712,879 *sic* (Wu). It is noted that the Patent No. stated in the Office for Wu was incorrect but the patent number was correctly cited in the PTO-892. Accordingly, the Applicants referred to US 3,713,879 in responding to the present Office Action. As stated above, Fearing fails to either teach or suggest a composition comprising melamine-formaldehyde and N-methylol functional resin(s) as required by the claims, as amended. In view of

the foregoing and in view of the fact that Wu fails to correct the factual defects of Fearing, the combination of Fearing and Wu fails to teach or suggest a composition as recited in claims 6, 11 and 14 as amended. Accordingly, it is respectfully requested that the rejection of claims 6, 11 and 14 under 35 USC § 103(a) over Fearing in view of Wu be reconsidered and withdrawn.

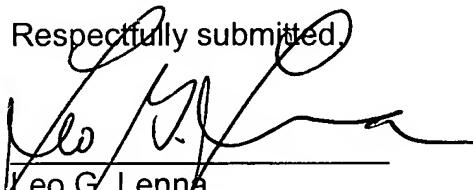
In the Office Action, Claims 12 and 13 have been rejected under 35 USC § 103(a) as allegedly being unpatentable over Fearing as applied to claim 1 above, in view of Swidler and Wu. Accordingly, for the same reasons stated above, the combination of Fearing, Swidler and Wu does not teach or suggest a composition as recited in claims 12 and 14, as amended. Accordingly, it is respectfully requested that the rejection of claims 12 and 14 under 35 USC § 103(a) over Fearing, in view of Swidler and Wu be reconsidered and withdrawn.

Moreover, it is unexpected that the combination of melamine-formaldehyde and N-methylol functional resin binder system as claimed would produce a composition that when coated on a fabric has increased durability. That is, as discussed in the application, the combination of these two cross-linking agents together with the other components recited in the claims yield fabrics that hold up to 50 or more home launderings, a magnitude of durability that is not only unexpected but has never before been observed using the hydroxyl functional phosphorous esters as described in claim 1 as amended. Accordingly, the fact that the physical properties produced by the composition of the present invention as recited in the claims as amended is unexpected is still

further evidence that the claimed invention can not be considered obvious over the cited art.

In view of the foregoing, the Applicants respectfully assert that the claims, as amended, are in condition for allowance and favorable consideration of the application as amended is respectfully requested. Early favorable action is earnestly solicited.

Respectfully submitted,


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